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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 RANDY COY HENDERSON,

11 Petitioner,

12 v.

13 STEPHEN SINCLAIR, Superintendent

14 Respondent.

Case No. C08-5718 FDB

ORDER DENYING CERTIFICATE
OF APPEALABILITY

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16 This matter comes before the Court on motion for certificate of appealability.

17 On April 15, 2009 this Court transferred Petitioner's petition for habeas corpus relief to
18 Ninth Circuit as a second or successive petition. Subsequent to the Ninth Circuit's denial of
19 Petitioner's application to file a successive habeas petition, Petitioner filed a motion for certificate
20 of appealability of this Court's Order transferring the successive petition.

21 A court will issue a certificate only when a petitioner has made "a substantial showing of the
22 denial of a constitutional right ." 28 U.S.C. § 2253(c)(2). "Where a district court has rejected the
23 constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: The
24 petitioner must demonstrate that reasonable jurists would find the district court's assessment of the
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1 constitutional claims debatable or wrong." Slack v. McDaniel, 529 U.S. 473, 484 (2000). A
2 petition dismissed on procedural grounds has two components, one directed at the underlying
3 constitutional claims and one directed at the district court's procedural holding. Id., at 484-85.
4 Where the district court dismisses a petition on procedural grounds, a certificate of appealability
5 "should issue when the prisoner shows, at least, that jurists of reason would find it debatable
6 whether the petition states a valid claim of the denial of a constitutional right and that jurists of
7 reason would find it debatable whether the district court was correct in its procedural ruling." Id., at
8 484.

9 Petitioner has not met this burden. Petitioner has made no showing that this Court erred in
10 finding the present petition a successive petition for habeas relief. The procedural bar is not
11 debatable and Petitioner cannot demonstrate cause or actual prejudice. Additionally, it is not
12 debatable that Petitioner cannot demonstrate actual innocence. Petitioner fails to set forth a
13 debatable claim as to either a procedural bar or denial on the merits.

14 ACCORDINGLY;

15 The Certificate of Appealability is **DENIED**.

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17 DATED this 31st day of August, 2009.

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FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE